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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,799	08/04/2003	Steven Dibdin	452000	7251
27717	7590	01/06/2006	EXAMINER	
SEYFARTH SHAW LLP 55 EAST MONROE STREET SUITE 4200 CHICAGO, IL 60603-5803			NGO, LIEN M	
			ART UNIT	PAPER NUMBER
			3754	

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/633,799	DIBDIN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	LIEN TM NGO	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This office action is followed to the Pre-Appeal Brief Request for Review, dated 10/31/05, and the Panel Decision from Pre-Appeal Brief Review, dated 12/22/05.

Applicant's arguments in the Pre-Appeal Brief Request for Review with respect to some of the rejection(s) of claim(s) 1, 3-6 and 8-10 under section 102(b) by Paz (3,739,938) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However the rejection 102(b) of claims 1-3, 6 and 7 by Hsu (5,857,941), and the rejection 102(b) of claims 1 and 3-9 by Lin (6,659,302) are still remained. Upon further consideration, some new ground(s) of rejections are made as follows. Therefore, the final rejection dated 7/29/05 has been withdrawn.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-3, 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hsu (5,857,941). Hsu discloses, in figs. 5, 6 and 9, a beverage container comprising a base 7 defining a vacuum insulation space, a removable cover 1 having a cap defining a recess 331 or 3, an aperture 32 a drink passage 33, a valve assembly 41 having an

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actuator mechanism or a push button 21 including a toggle mechanism 41 so that alternate actuations of the actuator mechanism respective latch the valve assembly in its open and close conditions, see figs. 5 and 7.

2. Claims 1 and 3-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Lin (36,659,302). Lin discloses, in fig. 2, a beverage container comprising a base (coffee mug), a removable cover 20 having a cap defining a recess (the annular bottom of member 32), an aperture 24, a drink passage 28, a valve assembly 52 having a push button 64 disposed centrally of the cap, the cap includes a raised lip 30 extending from the recess, a vent (another passage 28), and a toggle mechanism (lugs 68 interfacing with the indexing shoulders 26, see col. 4, lines 52-56) for latching the valve assembly in open and closed conditions.

3. Claims 1-5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Hatsumoto (6,098,834). Hatsumoto discloses, in figs. 1 and 2, a beverage container comprising a reservoir 20 including inner and outer walls 22, 21; a cover assembly 30 having a cap 32 defining a recess 31 open to ambient, an aperture 68 therethrough spaced from the recess; the cover assembly defining a drain/drink passage 34 communicate with the recess; a valve assembly 52 including a manually operated actuator mechanism 84 having a push button 38 accessible through the aperture and disposed centrally of the cap; wherein the passage 34 is spaced radially outwardly from the push button, and the cap includes a raised lip 32 extending from the recess .

4. Claims 1 and 3-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Tardif (6,935,536). Tardif discloses, in figs. 1, 3, 8 and 10, a beverage container

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comprising a reservoir 12; a cover assembly 10 having a cap 18 defining a recess 22 open to ambient (when the cap is detached from the reservoir), an aperture 42 therethrough spaced from the recess; the cover assembly defining a drain/drink passage 28 communicate with the recess; a vent opening 34 spaced from the aperture and the recess; a valve assembly including a manually operated actuator mechanism 52 having a push button 50 accessible through the aperture and disposed centrally of the cap; wherein the passage 28 is spaced radially outwardly from the push button. The actuation mechanism includes a toggle mechanism 72 for latching the valve assembly in open and closed conditions.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 3-6 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over King (Des. 375,655) in view of Paz (3,739,938).

King discloses, in fig. 1, a beverage container comprising a reservoir; a cover assembly having a cap defining a recess open to ambient, the cover assembly defining a drain/drink passage communicate with the recess; a vent opening spaced from the recess.

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King does not disclose the cover assembly comprising a valve assembly including a manually operated actuator mechanism accessible through an aperture disposed centrally of the cover assembly.

Paz teaches, a beverage container comprising a reservoir; a cover assembly having a cap, and defining a drain/drink passage communicate with the recess; a vent opening spaced from the recess, and a valve assembly including a manually operated actuator mechanism accessible through an aperture disposed centrally of the cover assembly.

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the cover assembly of King with a valve assembly, as taught by Paz, in order to prevent spilling out of the content from the reservoir.

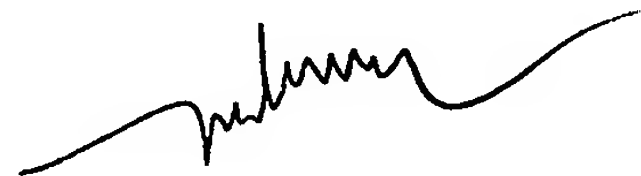
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIEN TM NGO whose telephone number is 571-272-4545. The examiner can normally be reached on Monday through Friday from 8:30 AM -6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL MAR can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LIEN TM NGO  
Primary Examiner  
Art Unit 3754

December 28, 2005



MICHAEL MAR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700